

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
v.) Court No. 05-11818-RWZ
)
TERRENCE J. JOYCE,)
)
Defendant.)
)

PLAINTIFF'S OPPOSITION TO THE DEFENDANT'S MOTION TO DISMISS

The United States of America hereby opposes the defendant's motion to dismiss. As reasons therefore, the plaintiff states the following:

1. On September 2, 2005, the United States filed this action for money judgment against the defendant for his outstanding HEAL debt.
 2. On November 18, 2005, this Court issued a notice of scheduling conference.
 3. Pursuant to the requirements set forth in the notice of scheduling conference, on December 6, 2005, the United States submitted a "Joint Submission" without the input of the *pro se* defendant as the United states was unable to contact the defendant.
 4. On December 15, 2005, the Court conducted a scheduling conference with the parties. At the conference, the defendant admitted that he had the outstanding student loan

debt which acquired while attending Dartmouth Medical School, however, the defendant claimed that he did not have the means to pay the debt. In response, the United States asked the defendant to provide a financial statement with accompanying documentation to support the defendant's financial claims. It was the intention of the United States to use the defendant's financial statement and supporting documentation to propose a potential settlement between the Department of Health and Human Services, the federal agency responsible for the student loan funds, and the defendant. Based on these discussions, the Court issued an order for the parties to submit a status report to the Court by February 15, 2006, apparently in the hope that the parties could resolve the matter short of further litigation.

5. The plaintiff sent a letter to Mr. Joyce on 2/9/06 stating that it had tried to contact him numerous times in order to settle the case. The plaintiff further stated that a compromise would not be possible until he provided a financial package. The defendant then filed a response letter dated February 11, 2006, stating that he had provided us with all of the information that we had requested.
6. On February 15, 2006, the United States submitted a status report which stated that the defendant had submitted some financial information but there were still a few things that

were needed. The United States requested that the Court direct the parties to submit another status report by April 17, 2006, in the hope that the remaining documentation would be submitted and the parties would workout an agreement.

The United States submitted this status report without the input of the defendant as the United States was unable to contact the defendant.

7. From February 27, 2006 through April 3, 2006, the plaintiff then sent the defendant several more letters informing him that he needed to fill out a financial statement package and provide additional financial documents. In addition, the plaintiff tried contacting the defendant approximately seven times between March 2, 2006 through April 3, 2006, at the number he provided. Each time, a detailed message was left requesting that the defendant contact the plaintiff to discuss the documents that were still missing from his financial review. The defendant did not respond.
8. On April 17, 2006, the United States submitted a status report which noted the defendant's failure to provide the requested documentation and participate in a dialogue to reach a mutually acceptable payment agreement. In addition, the United States asked the Court to establish a discovery schedule.
9. As of today's date, the financial material is still

outstanding. The following is a list of the information that is still outstanding:

- a. completed Financial Questionnaire;
 - b. information regarding his current employment status and, if he is employed, a recent copy of his pay stub;
 - c. 2005 Tax Returns;
 - d. whether he is still a part-time law student and, if so, how is he financing his education;
 - e. recent copies of his billing statements for all the expenses listed within the Financial Questionnaire; and
 - f. the last three months of bank statements for the Bank of America checking account he claims he has in a letter dated January 26, 2005.
10. The defendant has not certified that he contacted the plaintiff regarding his motion to dismiss and has attempted to narrow the issues as required by Local Rule 7.1. In fact, the defendant has not contacted the plaintiff regarding his motion.

For all of the aforementioned, the United States respectfully requests that this Court deny the defendant's motion to dismiss.

Respectfully submitted,

UNITED STATES OF AMERICA
By its attorneys

MICHAEL J. SULLIVAN
United States Attorney

Dated: January 10, 2007 By: /s/ Christopher R. Donato

CHRISTOPHER R. DONATO
Assistant U.S. Attorney
John Joseph Moakley Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3303

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above-document was served by first class mail, postage prepaid, upon the *pro se* defendant at the following addresses:

Terrence J. Joyce
30 Fort Meadow Drive
Hudson, MA 01749

Dated: January 10, 2007

/s/ Christopher R. Donato
CHRISTOPHER R. DONATO
Assistant U.S. Attorney